IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.154 of 2007
with
Civil Application No.2903 of 2007

Rajesh s/o Sahebrao Nagpure. .. Petitioner
v/s.
The State of Maharashtra & anr. .. Respondents

Petitioner in person.

Mr.A.A. Kumbhkoni, Associate Advocate General with Mr.P.P.Kakade, AGP for respondent no.1.

CORAM : SMT.RANJANA DESAI &
SMT.ROSHAN DALVI, JJ.

Dated : 19th December 2007

P.C. :

1. The petitioner was appointed as Civil Judge, Junior Division and Judicial Magistrate, First Class. His services were terminated by order dated 23rd December 2005. In the instant petition, the petitioner has prayed for quashing and setting aside of the said termination order. An application has been filed by the petitioner stating that his representation dated 16.1.2006, which has been rejected by

the High Court on its administrative side, should be set aside. The petitioner is present in court today. He has drawn our attention to the judgment of this court in **Ashokkumar Hiiralal Lohiya vs. The Hon'ble High Court of Judicature at Bombay & anr. 2007 (1) AIR Bombay R 712 (DB)**. He has heavily relied upon paragraph 10 of the said judgment. The relevant potion of paragraph 10 of the said judgment may be quoted as under:-

> "…. Having regard to the Constitutional scheme, we are of the considered opinion that the representation submitted by the petitioner was required to be forwarded by this Court to the State Government with its recommendations so as to pass appropriate order and in this view we are supported by the judgment in the case of T.Lakshmi Narasimha Chari v. High Court of A.P. and Anr., (1996) 5 SCC 90 : (AIR 1996 SC 2067). It was permissible for this Court on the administrative side to decide the representation submitted by the petitioner. On receipt of such a representation it was necessary that it was placed before the Review Committee and the recommendations of the Review Committee ought to have been submitted to the State Government to pass the order on the said representation and no doubt the recommendations made by this Court would be binding on the State Government but the fact remains that the law does not permit that the representation submitted by the petitioner is finally disposed of by this Court on its administrative side. We, therefore,

> hold that the order rejecting the representation submitted by the petitioner and as intimated to him vide the communication dated 28th February 2005 by the Registrar General is unsustainable in law. The representation is required to be restored to the file."

It is clear from the above portion of the judgment in Ashokkumar's case (supra) that representation submitted by the petitioner could not have been finally disposed of by this court on its administrative side. The course stated in Ashokkumar's case (supra) ought to have been followed.

2. We have heard Mr.Kumbhkoni, learned Associate Advocate General. Mr.Kumbhkoni states that legal position is crystallized in the judgment of Ashokkumar (supra) and there can be no dispute about it. In view of this, the order dated 6th February 2006 is quashed and set aside.

3. The petitioner states that he wants to file a fresh representation to the Government. If the petitioner so desires, he may address a fresh representation to the Government. Needless to say that on receipt of the representation, the Government and the High Court on its

administrative side will take appropriate action in accordance with law, more particularly in the light of paragraph 10 of the judgment in Ashokkumar's case (supra). Needless to say that since the petitioner is filing a fresh representation, his earlier representation need not be considered.

4. We make it clear that we have not considered the merits of the case and all contentions raised by the petitioner in this petition are kept open.

5. The petition is disposed of in the aforestated terms. Needless to say that civil application also stands disposed of.

(SMT.RANJANA DESAI, J.)

(SMT.ROSHAN DALVI, J.)